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Recent amendments notified by the Reserve Bank of India

The Reserve Bank of India (RBI) has issued circulars notifying several changes which have been summarised below:

1. **Retaining of foreign exchange in exchange earner's foreign currency/resident foreign currency/diamond dollar accounts**

Presently, exchange earner's foreign currency (EEFC)/ resident foreign currency (RFC)/ diamond dollar account (DDA) account holders are permitted to credit up to 100% of their foreign exchange earnings to their EEFC/RFC/DDA accounts.

The RBI has now directed that exchange earners can only retain 50% of their foreign earning in non-interest bearing EEFC/RFC/DDA account. The balance 50% needs to be surrendered for conversion to rupee balances.

Additionally, such account holders can now purchase foreign exchange only after fully utilising the available balances in the respective accounts.

Further, all EEFC account holders need to get 50% of the balances in the EEFC accounts converted into rupee balances within fortnight of the date of circular.

A.P. (Dir Series) Circular No. 124 dated 10 May 2012

2. External commercial borrowing - Utilisation of ECB proceeds for rupee expenditure - reporting requirement

Since November 2011, external commercial borrowing (ECB) meant for rupee expenditure in India are required to be immediately credited to rupee accounts with AD Category I banks in India.

The RBI has now amended the reporting guidelines by requiring the Indian borrowers to provide bifurcation of the utilisation of the ECB proceeds towards foreign currency and rupee expenditure in Form-83. Form-83 is filed for availing loan registration number in connection with proposed ECB's under the automatic route.

A.P. (Dir Series) Circular No. 119 dated 7 May 2012

3. Foreign direct investment – Consequential amendment in FEMA Regulations

The RBI has amended the FEMA Regulations to reflect the amendments made in the FDI policy by the Government of India vide its circular no. 1 of 2012, as follows:

- Issue of equity shares/preference shares against conversion of imported second-hand machinery has been disallowed (presently, permitted under the Government route);
- Government approval for foreign investment in commodity exchange (total ceiling is 49%) would be required only for FDI component (individual ceiling is 26%) and not for FII limit (individual ceiling is 23%) under portfolio investment scheme; and
- It has been clarified that 'leasing and financing' being one of the 18 NBFC activities wherein 100% FDI is permitted under automatic route, subject to

minimum capitalisation norms includes only financial lease and not operating lease.

A.P. (Dir Series) Circular Nos. 120 and 121 dated 8 May 2012 and 127 dated 15 May 2012

4. Enhancement of limit of releasing foreign exchange for current account transactions

AD Banks are now permitted to release up to USD 25,000 or its equivalent (currently USD 5,000) for a current account transaction (not included in the Schedules I and II of the current account transactions rule) without any supporting documents (including A-2 form).

The foreign exchange would be released based on a simple letter from the applicant containing the basic information, viz., name and address of the applicant and beneficiary, amount to be remitted and purpose of remittance.

A.P. (Dir Series) Circular No. 118 dated 7 May 2012

5. Transfer of funds from non-resident ordinary rupee account to non-resident external rupee account

The RBI has now permitted non-resident Indian NRI's¹ to transfer funds from non-resident ordinary rupee (NRO) account to non-resident external rupee (NRE) account within the overall ceiling of USD one million per financial year subject to payment of applicable taxes, as if funds were remitted abroad.

Such credit of funds to NRE account shall be treated as eligible credit.

A.P. (Dir Series) Circular No. 117 dated 7 May 2012

¹ As defined in Foreign Exchange Management (Deposit) Regulations, 2000 contained in Notification No. FEMA.5/2000-RB dated 3rd May 2000, as amended from time to time

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